

STATE OF LOUISIANA
GROUND WATER MANAGEMENT COMMISSION

IN RE: GROUND WATER *
MANAGEMENT COMMISSION *
MEETING *

REPORT OF MEETING
HELD AT
BATON ROUGE, LOUISIANA
FEBRUARY 20, 2002

STATE OF LOUISIANA
GROUND WATER MANAGEMENT COMMISSION

IN RE: GROUND WATER *
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Report of the meeting of the Ground Water
Management Commission, State of Louisiana, on February
20, 2002, in Baton Rouge, Louisiana.

COMMISSION MEMBERS IN ATTENDANCE:

Karen Gautreaux, Chairman
Phil Boudreaux, Commissioner of Conservation
Zahir "Bo" Bolourchi, Secretary, DOTD
George Cardwell, Capital Area Ground Water Commission
William "Bill" Cefalu, Police Jury Association
Richard Durrett, Sparta Groundwater Conservation
District
Peggy Gantt, Louisiana Municipal Association
Dale Givens, Secretary, DEQ
Dean Lowe, DHH
Fulbert Leon Namwamba, Geologist
Brad Spicer, Agriculture & Forestry
John Roussel, Assistant Secretary Wildlife & Fisheries
Kyle McCann, Louisiana Farm Bureau

AGENDA

- I. Call to Order - Karen Gautreaux
- II. Ground Water Staff Report
- III. Ground Water Management Advisory Task Force
Committee Reports
- IV. Ground Water Management Advisory Task Force
Comments
- V. Consultant's Report
- VI. Old Business
- VII. New Business: 1) Data Collection
2) Rules of Procedure
- VIII. Public Comments
- IX. Schedule for Next Meeting
- X. Adjourn

GROUND WATER MANAGEMENT COMMISSION MEETING
FEBRUARY 20, 2002
* * * * *

COMMISSIONER GAUTREAUX:

We're going to get started. Dr. Namwamba was at the meeting this morning, so I anticipate he will join us in a minute. What we can do at this moment, I'll just ask the Commissioners to go around and introduce themselves so you'll be on the record. Brad?

COMMISSIONER SPICER:

Brad Spicer, Louisiana Department of Agriculture and Forestry.

COMMISSIONER GANTT:

Peggy Gantt, Louisiana Municipal Association.

COMMISSIONER ROUSSEL:

John Roussel, Louisiana Department of Wildlife and Fisheries.

COMMISSIONER GIVENS:

Dale Givens, DEQ.

COMMISSIONER BOUDREAUX:

Phil Boudreaux, Office of Conservation.

COMMISSIONER BOLOURCHI:

Bo Bolourchi, DOTD.

COMMISSIONER DURRETT:

Richard Durrett, Sparta Ground Water Commission.

COMMISSIONER CARDWELL:

George Cardwell, Capital Area Ground Water Conservation Commission.

MR. LOWE:

Dean Lowe, Department of Health and Hospitals, sitting in for Dr. Guidry.

MR. MCCANN:

Kyle McCann for Ms. Linda Zaunbrecher, Louisiana Farm Bureau.

COMMISSIONER GAUTREAUX:

Mr. Cefalu, do you want to --

COMMISSIONER CEFALU:

Bill Cefalu, Police Jury Association.

COMMISSIONER GAUTREAUX:

I'm Karen Gautreaux with Governor Foster's office.

I think Dr. Bahr will be joining us also shortly. Our first order of -- item of business is the Ground Water Staff Report, and Tony Duplechin from Conservation is going to report.

MR. DUPLUCHIN:

Thank you, Karen. Since our last Commission meeting, the staff has received an additional 45 well information sheets turned in, bringing the total number of registrations we've gotten since July 1, 2001, to 253; six just-cause waivers were issued since the last Commission meeting, one industrial well for a ready-mix company in Baldwin, two agricultural wells for a Mr. Allen McCain, an agricultural well for Howell Farms, a public supply well for the French Settlement Water Company, and an irrigation well for two catfish ponds at Barksdale Air Force Base. We received six forms that have been sent in less than 60 days prior to the anticipated well installation date and for which the

owner did not request just cause variance. There was also one form sent in after the well had been completed, and there again, the owner had not requested a just cause variance.

Due to Department of Natural Resources' move into the new building and subsequent issues involved with that move, the Staff has decided to wait until a later date to meet with the Information Technology Division in the Office of the Secretary to get the notification forms put online to where people could do it that way.

The only things that were added to the Commission's Web site was the transcript from the last meeting and summary from the last meeting and last Task Force meeting were added, as well as announcements and agendas for this meeting today, and those will be monthly things that will never change.

During the last month either I or my staff attended several meetings around the state. On January 17th and 18th, I attended a meeting of the Louisiana Ground Water Association in Alexandria. On Friday I made a presentation about Act 446 data collection requirements, short and long-term goals for Act 446, and I would like to thank the Louisiana Ground Water Association for the invitation to talk and offer of some booth space to set up information. Several staff members attended some talks in St. Francisville on January 30th given by the Louisiana Environmental Health Alliance.

Staff also attended meeting of the Sparta Ground Water Conservation District in Ruston on February 5th.

In your packets I have included a copy of the Sparta's project committee report and recommendations that were passed out at the meeting. If anyone has any questions concerning the report, I don't know if Richard would field those questions. I gave a short presentation at that meeting on the procedure for making an application to the Commission for a critical groundwater area determination hearings. The staff also attended meetings of the Outreach Committee, and as I did this morning, I'll let the Outreach Committee give a report on that.

The Staff met with Commissioners Gautreaux and Bolourchi on February 14th to discuss water well information collection, and I'll go into this in more detail during new business. The staff met with the Commission's consultant on several occasions, including yesterday, Fenstermaker and Associates in Lafayette, to discuss groundwater data and information availability here at DNR and to get a progress report on where they stand with their project that they're working on.

On Friday of this week I will be addressing the Drainage Public Works and Water Resources Committee of the Louisiana Police Jury Association at their annual meeting up in Monroe. Finally, the National Ground Water Association in association with the Ground Water Foundation has moved this year's National Ground Water Awareness Week up several weeks to March 17th through 23rd. I think this gives us a good opportunity to

maybe get the word out a little bit more about ground water. I know some people around the state still think ground water exists in large underground caverns throughout the state. I've also included in your packet a copy of a proposed proclamation that we have asked Commissioner Gautreaux to present to Governor Foster for his consideration and signing. Are there any questions?

(No response.)

Thank you.

COMMISSIONER GAUTREAUX:

I'd like to note that Dr. Namwamba has joined us, and also that Representative Dan Moorish is sitting in with us today. Are there any other elected officials that we need to note?

(No response.)

Thank you. Our next item of business is the Ground Water Management Advisory Task Force Committee Reports. I believe there were three that gave reports this morning. We had a joint Economic and Public Supply Committee report. Is Mr. Owen here to give that? I'll try to recap what I heard this morning, unless someone actually has a little written summary. But Mr. Owen is hosting a joint meeting of the Public Supply and Economic Committee meeting to discuss a model, the design of a model to look at incentives or other economic tools to look at alternative sources, and he's going to host that meeting on March 5th at 2:00 in the third floor conference room, I think, of the Baton Rouge Water Company. But we will be sending a little more concise description and the particulars in our regular meeting notification, if you're interested in hearing that. If you're not on the mailing list, please make sure that you've signed the agenda so you can receive meeting notifications -- I'm sorry, sign-in sheet, not the agenda.

Industrial Committee? Henry, would you like to --

MR. GRAHAM:

Good afternoon. My name is Henry Graham with the Louisiana Chemical Association, and I just wanted to summarize briefly a report from our Industrial Committee that was given at this morning's meeting. We have sent a survey out to some of the major industrial users. We do not have all the survey results back at this point, so this is just a partial survey. We have about 45 responses out of 86 major industries requested, about 52 percent. Of the survey of the companies so far, groundwater usage was approximately from 200 groundwater wells. The majority of those wells, 149 or 75 percent, have less than a half a million gallons per day. About 42 of the wells were projected at greater than one million gallons per day or 21 percent.

We also asked in our survey the purpose of the groundwater usage, and we found that as far as groundwater usage in industry, the predominant use is for cooling water purposes. That was approximately 52

percent. For process water use, 36.5; potable water use, 5.7; fire and safety water use, 4.8. The average daily use was approximately 64.5 million gallons a day.

We also requested companies to ask -- we asked companies about estimated new groundwater wells and estimated groundwater wells they expect to shut down in the next several years. The preliminary, and again, this was just from those surveyed, we only estimated one new groundwater well at approximately one million gallons a day and six groundwater wells to be shut down within the next several years that would reduce by 1.5 million gallons a day.

We asked the companies about potential surface water uses. Of the 45 responses, 22 of those indicated the Mississippi River would be the available surface water use. A couple mentioned the Sabine River and the Ouachita, and then there were approximately 18 indicated that there were no suitable surface water alternatives for their particular facility.

The final thing we also checked was on surface water usage. It appears that approximately 93 percent of our industrial facilities are using surface water rather than ground water as their primary source. The average daily usage totals for that was 1,580 million gallons per day of surface water, and 64.5 million gallons a day of ground water. That's the report that was given.

COMMISSIONER GAUTREAUX:

Thank you, Henry. I know several people have mentioned that that's going to be very useful information.

MR. GRAHAM:

Right. These are just reports from the chemical and the refining industry. We are gathering information also from pulp and paper and utilities, but we haven't gotten all of those surveys back yet.

COMMISSIONER GAUTREAUX:

Thank you. Any questions for Henry?

COMMISSIONER CEFALU:

Of the 45 that responded, how many were sent out?

MR. GRAHAM:

We had 86, 86 major facilities.

COMMISSIONER CEFALU:

About 50 percent responded.

MR. GRAHAM:

About 52 percent have responded so far.

COMMISSIONER CEFALU:

Are we assuming that the other 50 percent does not

--

MR. GRAHAM:

We're asking for reminder letters, and we're looking at the -- it looks like we've got the majority of the surface water users, and these numbers compare favorably to the numbers that were gathered by USGS back in '95, so they indicate that the surface water and ground water use has not had a major increase. They're pretty much about the same kind of numbers we saw.

COMMISSIONER CEFALU:

When you talk about the groundwater use, do you have any comparisons on the use to the recharge of the aquifers?

MR. GRAHAM:

No. We are -- right now what we're going to do is put this data into the system with your consultant. We're going to give him totals by parish, which is how they requested them, so he could put the numbers into the various parishes in collecting his data.

COMMISSIONER CEFALU:

We'll get all that, I guess, from the consultants, and we'll get a copy of this report?

COMMISSIONER GAUTREAUX:

I think, Henry, you mentioned that you were going to provide us with a summary to be distributed.

MR. GRAHAM:

Yes. I have this little summary if you want.

COMMISSIONER GAUTREAUX:

That will be fine. If you can give it to Charlotte, wherever -- where is Charlotte? Ah, there she is. Charlotte, take the summary, please.

I think the next group that had a report was the Outreach Committee, Linda Walker?

MS. WALKER:

The Outreach Committee met February 6th and had good attendance, and we're going to be meeting again March 6th. We think this will probably be our last meeting before we have a full report or a recommended strategy to give to the Task Force on what we would consider short-term public outreach and long-term public outreach. So we're making good progress on that. It seems like each meeting we have, people bring in new ideas and new resources, and that's -- we don't want to overlook anything that would be of value here.

We are looking at and expect to have by the next meeting, we have decided that we also need to do a survey, that how can we know what it is that we need to tell people if we don't know what it is they need to know. So we're going to be doing some public outreach looking at what type of information we need to gather. That's pretty much it. Thank you.

COMMISSIONER GAUTREAUX:

Thank you. Any questions for Linda?

(No response.)

Thank you. I think that -- we didn't have any further committee reports. If anyone has one that was not present this morning and needs to deliver, speak now.

(No response.)

Thank you. The next item on the agenda is the -- we have a general spot for Ground Water Management Advisory Task Force comments, and I don't know if there are any members of the Task Force that care to make a comment or have a question at this point.

(No response.)

The consultant's report. Raymond Reaux is I think going to deliver the report for C.H. Fenstermaker. We

met yesterday, reviewed the status and Raymond is going to give us a brief report today. There are also other members of the team with us.

MR. REAUX:

Thank you. Thank you very much. I'm Raymond Reaux, C.H. Fenstermaker. This is Bruce Darling, LBG-Guyton. I'd like to give you an overview of what we've been doing, and the kind of progress we're making. Like Tony said, we did meet both yesterday with Karen and Tony to give them a lot more of the detail than I'm going to give you today of what we've been doing these past few weeks. Basically we're about 2 and a half months into the six-month schedule. For those of you who don't recall, we're kind of scheduled to complete June 15th, which just gives us a little bit of time between now and then.

A real productive dialogue with Karen and Tony yesterday was about the schedule and making sure we meet the deliverables and working towards that. Of course, that joins hands with you guys because we need to get a report to you, we need to give you adequate time to review that report, give us quality comments associated with that, and be able to return that to you on the deadline. I think Karen will talk about specific dates for you guys to meet. We do intend to attend your March meeting, which should be in the vicinity of the middle of the month, but it appears that we may need to have more than one meeting for you in May. We may need to have two meetings for you in May, one to deliver the product or shortly in advance, so maybe a March -- excuse me, a May 15th type meeting to let you have some questions, and then maybe towards the end of May or a later in May meeting to return all formal comments to us, which would provide us a couple of weeks to make those revisions and include them in the final report. I believe Karen will discuss that with you guys in detail later. We are going to be meeting with the Industrial and the Public Water Committee groups of the Task Force, and also Charlie Demas and his group on the Technical group.

I look around and I know we've met with a couple of you guys. We've been running around trying to get to the agencies that are in front of you. Most of you should have a list of agencies in front of you. I'm here to report that we've made about 85 percent of the contacts in that group, and we are continuing to make progress on that. Probably in the next ten days we will have made contact with everyone, and hope to wrap up at least what we feel is an introduction or a conclusion if we can of data, understanding of where your data is and what data you have.

I'll turn it over to Bruce maybe for a moment and maybe he can give you a little bit of an overview of how he is seeing the data and his perspective.

MR. DARLING:

We've been busy contacting as many agencies as we can to learn what we can about the availability of the data, the extensiveness of the data, and how applicable

those particular databases might be to what we're trying to do here in Louisiana. We're still in a gathering phase, but we'll very quickly be in the assessment phase, so we'll be able to render an evaluation for you by the time -- well, within a month to a month and a half we'll have a very good idea how applicable much of the data that we've been able to lay our hands on actually are to the water planning process in Louisiana.

We've also been involved in other activities unrelated to this data gathering. I in particular have been in touch -- have touched base with the US Geological Survey and with the Census Bureau to collect population and water pumpage numbers. The objective here of course is to make reliable forecasts of water demand in the different sectors of the economy in Louisiana. So we're working with Henry and his group and various other groups to compile information on pumpage in those sectors, and to build some reliable assumptions for our forecasts, and that's coming along rather nicely. I have a lot of meetings set up here in the next few weeks to complete the data gathering component of that phase, and I look forward to sitting down at my computer and doing what I can to build forecasts that I think we can all live with.

We also are working, are also very deeply involved in our survey of water planning programs in other states. One thing we proposed to do was to provide the Task Force and the committee members with a blueprint of how other states have approached water planning issues: what are the key issues in those states; what are the driving factors behind the decision to embark on water planning in states such as Florida, Mississippi, Arkansas, Oklahoma, and Texas; how applicable might some of these issues and approaches be in Louisiana and what might Louisiana want to adopt here. I would like to have that document ready for your review within a month or so, because I think the sooner you have that then the better idea you'll have how other states have approached similar issues that Louisiana is looking at right now. Raymond, do you want to take over again?

MR. REAUX:

Thank you. Just in general, you have two more copies of information in front of you. One is a sort of a flow chart, color flow chart. One thing you want to look towards the top, and I didn't mention it this morning, but we do have a domain name, a Web site name, www.la-water.com. That should be active, I would say, in a couple of weeks, and you can look towards some of the data that's shown in the flow chart. You may want to scan through it. This is kind of just a basic flow chart of what kind of information we can expect on the Web site itself.

And finally, there is a Xerox copy, bound, beginning with Louisiana Parishes. It sort of gives you a sense of the layering that we're starting to obtain. Much of this data came from either the

Louisiana Geographic Information disk or USGS, EPA, LDEQ, a varied number of agencies. But this is just the beginning of what we intend to do, which is obviously to provide a layering system that looks at aquifers in combination with drainage basins.

That concludes my remarks, and if you have questions, I would be happy to answer them.

COMMISSIONER NAMWAMBA:

The first thing I wanted to comment, this is Fulbert Namwamba, on the agency contacts, the universities. I don't know if it's an oversight, but Southern University, Baton Rouge is not on the list, and unless there is an objection.

MR. DARLING:

Certainly we need to add Southern to the list. We were concerned initially with contacting universities that had geology departments where graduate students would have done theses on different aspects of the hydrogeology of Louisiana, but of course, I intend to be in touch with you very soon about the survey that we're working on, and I'm sure you can -- we can talk about other issues at Southern that you might be able to help us with here.

COMMISSIONER NAMWAMBA:

Okay, because I know our department of civil and environmental engineering are having different projects in ground water.

MR. DARLING:

Very good.

COMMISSIONER NAMWAMBA:

Secondly, the map on surface drinking water, the one from the Louisiana GIS, GIS CD. If you zoom on it, you will discover that either due to a process of generalization, it is disconnected. It's not -- its quality needs some work. For example, if you look at East Baton Rouge Parish, if you look at the Amite River or the Comite River, you'll notice that some rivers start in the middle of nowhere and end in the middle of nowhere. So whereas on a general, not as acceptable, I think for the level of what we're doing, that has to be worked out.

MR. DARLING:

This is part of the general QA process that you go through in an exercise like this. We don't intend to take data at face value. Obviously, we have to look at things like that to determine how reliable the data are. So we are at a point now where we're ready to start looking at these things, and again, the QA -- this part of the QA process that we need to go through in order to determine what -- whether a given coverage is reliable or not.

COMMISSIONER NAMWAMBA:

Okay. I just brought it to your notice because I've had frustrating moments with this map before.

MR. DARLING:

I'm sure you have.

COMMISSIONER GAUTREAUX:

Any other questions or comments?

(No response.)

Thank you, Raymond and Bruce. Old business. I think we had two items of old business. Tony, why don't you start with your item of old business, the well registration. This particular item came up at our last Commission meeting. It also came up at the Advisory Task Force meeting, the discussion regarding well registration on domestic and replacement wells. And as a result of that discussion, Tony and staff members, Bo Bolourchi and I got together and we discussed this issue and have come up with some recommendations for the Commission, so Tony is going to give you some background on that.

MR. DUPLECHIN:

This kind of bridges from old business into new business because we'll be bringing up some recommendations. In light of the issues raised at the January 14th meeting of the Ground Water Management Commission, the staff reviewed all the transcripts of Commission meetings held since the first one on August 7th of last year. All the issues that had been raised last month had been discussed at several of the meetings and voted on by the Commission. All the information asked for by the Office of Conservation had been approved by the Commission.

If the Commission wishes to exclude domestic wells and replacement wells from the type of wells for which information must be submitted to the Office of Conservation, then a vote must be taken to do so. The staff, along with Commissioners Gautreaux and Bolourchi, met last week to discuss the availability of data for these types of wells. It was decided that information on domestic wells could be obtained by the Commission staff from the Department of Transportation and Development's database when it becomes available. And while the DOT, as we understand it, doesn't collect information on replacement wells per se, they are considered new wells, our staff will work on a way to separate those two types of wells.

The staff, therefore, recommends to the Commission that the owners of domestic and replacement wells not be required to submit well information to the Commissioner of Conservation. The Office of Conservation shall collect this information from DOTD's database. The Commissioner of Conservation will continue to collect information on the well types previously approved for presumption of just cause from the 60-day prior notification unless the Commission votes to resend these approvals. And if you look in your packets, I have definitions of the six different types of wells that were mentioned in the memorandum: domestic wells, replacement wells, and so forth.

COMMISSIONER GAUTREAUX:

So in essence, there was an understanding by some that there was a 60-day waiver for domestic and others. We shouldn't have to replace -- register those wells. We'll just get those from the DOTD database. So essentially what we're recommending is that for

domestic and replacement wells, we make a clear motion and vote on the Commission that those are obtained from the DOTD database.

COMMISSIONER CEFALU:

I'm assuming that that database is giving us necessary information that we need for Fenstermaker and them to make good decisions?

COMMISSIONER GAUTREAUX:

We feel like it is. Bo, would you like to comment on that?

COMMISSIONER CEFALU:

Instead of duplicating it and making these people go through something that's already been collected; is that what we're trying --

COMMISSIONER GAUTREAUX:

Correct.

COMMISSIONER BOLOURCHI:

That's how -- the data file, the entire Louisiana DOTD water registration data file is being transferred electronically to DNR on a monthly basis on the same day as our Internet page is being updated. Let me assure this Commission and the Commissioner of Conservation, that data is available to you, Tony, it's available to this Commission and the Commissioners. If what you receive is not sufficient, please let us know if you need a new field to be added. We'd certainly be glad to add it and transfer it to you electronically.

MR. DUPLECHIN:

We'll definitely work with DOTD.

COMMISSIONER BOLOURCHI:

I think this is a step forward. We appreciate y'all doing that, Ms. Chairman.

COMMISSIONER GAUTREAUX:

Fulbert, did you have a comment?

COMMISSIONER NAMWAMBA:

I just wanted to know from Bo how up to date the database is, and in what sort of electronic format they have it in.

COMMISSIONER BOLOURCHI:

The data is being updated by the minute. However, we have to make decision based on the availability of resource, how often do we want to update the Internet.

I had to make that decision back in 1997. The decision was, well, we can do it daily or annually. We settled on a monthly basis. If that's not sufficient, obviously, we can update it biweekly. The data is as we receive the registration form, they are processed and entered into our mainframe, and then automatically it changes it to access data file. But it can be done by the minutes, by the week, by the day. We decided that at this stage monthly is sufficient for the purposes of the users.

COMMISSIONER NAMWAMBA:

Last question, how is the location defined?

COMMISSIONER BOLOURCHI:

The location is defined to the nearest one second in the terms of degree, minutes, and second. And the way that is determined is by actually our, I call them

water well inspectors in the field, they go to the site, inspect the well to make sure it meets the construction standard, then they use a GPS system to determine the coordinates.

COMMISSIONER NAMWAMBA:

Thank you.

COMMISSIONER GAUTREAUX:

Are there any other questions or comments?

COMMISSIONER BOLOURCHI:

Just one other comment. Because of the legality, we also determine section, township, range, because that's the legal definition of property in this state.

COMMISSIONER GAUTREAUX:

Thank you. One of the other things that we discussed in our meeting is these types of issues, we need to, for example, if our consultants make a recommendation in looking at the current system if there are any kinks, we certainly have an opportunity to make changes that we would recommend when we propose our overall policy. Any other questions or comments?

COMMISSIONER CEFALU:

Do you need a motion?

COMMISSIONER GAUTREAUX:

Yes.

COMMISSIONER CEFALU:

If I'm in order, I'd like to make a motion that we exclude those requested wells from disclosure or whatever reporting.

COMMISSIONER GAUTREAUX:

Would you mind wording your motion more to that the staff of Conservation will accept registration information from that gathered by DOTD on domestic and replacement?

COMMISSIONER CEFALU:

Instead of -- okay. So moved.

COMMISSIONER GAUTREAUX:

Thank you. So well worded.

COMMISSIONER GIVENS:

I second the motion.

COMMISSIONER GAUTREAUX:

Mr. Givens seconds. All in favor? (Aye.) Any opposed? (No response.) Thank you.

MR. DUPLECHIN:

Thank you. Before going to our second item, before we wrap up the last one, we're having a little bit more success in getting the word out that the Office of Conservation is not permitting or registering water wells, we're just collecting information. One of the best venues I had for getting that word out was when I was able to give the talk to the Louisiana Ground Water Association last month, and hopefully I can touch base with a few more people this Friday at the Police Jury Association.

COMMISSIONER GAUTREAUX:

Thank you. The second item?

MR. DUPLECHIN:

The second item on our list are the emergency rules that we have in place. Your current Emergency

Rules of Procedure for Critical Ground Water Area Designation Hearings before the Louisiana Ground Water Management Commission will expire on or about March 30th. We would like to have recommended to the Commission adoption of permanent rules by now, but we'd also at least like to have one hearing under our belts before we proceed along that path. It's more than apparent that the notice of intent from the Sparta Commission won't be published anytime within the next few days, so it's still several weeks before that will be done.

The staff, therefore, recommends to the Commission that it consider reapproval of the emergency rules at your next meeting. I have included in your packet a copy of the current rules. The only thing that would change from those rules are the effective dates in the first paragraph. Please review these and forward any comments or suggested revisions to my staff or myself no later than March 8th, if you please.

COMMISSIONER GAUTREAUX:

Are these -- I assume we're going to put these on the Web site, so if someone wants to look at them, even though the only change is the date, they can do so.

MR. DUPLECHIN:

Right, we'll put proposed.

COMMISSIONER GAUTREAUX:

Any questions or comments on that item?

(No response.)

I guess -- does that conclude your old business items?

MR. DUPLECHIN:

Yes, ma'am.

COMMISSIONER GAUTREAUX:

Our third old business item, Jim Marchand had been requested by the Commission to give a brief overview of the home rule charter state legislative situation in terms of possible preemption, or exactly where we stand in the legal scheme of things. So, Jim, if you'd like to --

MR. MARCHAND:

I think I've been asked to write it up. Do y'all want to go over it?

COMMISSIONER GAUTREAUX:

That's right. Jim was asked to write it up. It might be good, Jim, if you could just hit the high points.

MR. MARCHAND:

I'll just try and make a little -- briefly summarize the nine pages. Basically, the state has established three types of local governments under the home rule scenario. There's pre >74 constitution home rule governments, there's post >74, and there are non-home rule governments, which are governments that are not chosen to fall under the home rule scenario; the powers of home rule government to delegate it through the Constitution, and I note those articles. There's some that deal generally with the powers of home rule governments, and then there's some specific issues that

might arise in the context of groundwater legislation and local ordinance dealing with that, and those include the constitutional delegation to the state that it shall preserve and protect the natural resources, and the legislature shall enact legislation to do so. And there's a fourth area of a general reservation of the police powers to the state, and then that article also contains some specific denial of rights, if you want to use it, to the local governments dealing with defining and punishing felonies as well as providing some laws or ordinances that deal with civil and private relationships.

When you get to the cases, they are pretty -- I wouldn't -- they're hard to read and they're kind of confusing because this is a new issue and there are a lot of scenarios that can occur, and yet when we try and extrapolate those cases to our scenario, you have to make some jumps, if you will, or some -- recognize that some of these things may be easier to do under the legislation under certain scenarios than others. And by that I mean if you have a pre >74 home rule government, it has a little different scenario or power than a post >74 home rule government.

And in addition, when you're dealing with those governments, when you take the power delegated to the state and apply it to those governments, how the courts may come out, it may come out different from a post to pre. However, the cases were kind of confusing, and then there's a new case that came out, Morial v Smith and Wesson, which actually kind of made it more confusing in a way, but it gave the state a lot more power in that that court recognized that the police power of the state can be applied to certain -- to both pre- and post-home rule governments, even though there was no specific constitutional delegation to the state to make laws, and that specifically dealt with firearms. And basically the court said that the regulation of the firearm manufacturing is something that is in the police power because it is for the public health and welfare of the whole state, and even though New Orleans, which had a pre >74 constitutional home rule had a specific provision in there that said it could sue who it wanted, the court said, no, you can't because the state has preempted this area on that.

Now, as I said earlier, when an ordinance by a local government is enacted, the state would rely on the constitutional provision of Article IX, Section 1 that says that the state shall regulate -- I should say that the state shall protect natural resources.

COMMISSIONER GAUTREAUX:

Any questions for Jim? Thank you for writing that up for us.

COMMISSIONER CEFALU:

And other than legal terms, do we have any conflicts at this time?

MR. MARCHAND:

Any what?

COMMISSIONER CEFALU:

Conflicts.

MR. MARCHAND:

Tangipahoa Parish has passed an ordinance, and in effect it could be a conflict with actions taken by -- in a critical groundwater area. At this time no actual conflict has occurred because we haven't really taken any action. The state would probably not be the party that would push it. The party affected, someone in Tangipahoa Parish or another local area that was affected by action contrary to the state's action taken by that parish would probably be the party that would bring it up to be -- to be determined whether state law preempted the local ordinance.

COMMISSIONER CEFALU:

But has it been tested?

MR. MARCHAND:

No. One other thing just on that, the cases do indicate, and this is something for the Commission to consider what it would recommend to the Legislature, the cases do look to the history of the act and for statements in the legislation that might say, we are exercising the police power, we are -- this is for the public welfare of the entire state, and even specific statements that set out whether it is intended to be a preemptive statute or not. So as the recommendation for the 2003 Legislation comes up, the Commission may want to consider asking the Legislature to clear that issue up.

COMMISSIONER NAMWAMBA:

You refer to pre-existing 1974 constitution governments and post 1974. Is there a difference in the way the rules are exercised or the law is exercised, state versus local for pre 1974, like Baton Rouge and New Orleans, compared with post 1974?

MR. MARCHAND:

That can be, and there were -- it was more distinct prior to the Morial v Smith and Wesson case. It also depends on whether the issue is clear in the Constitution that the state is to have the authority to deal with that area. And I compare that to Wildlife and Fisheries issues that are clearly the state has been -- is the party that determines those questions. The court would say, we feel that -- we think that groundwater protection is comparative to that, or gun manufacturing they might find that, yes, even though they -- in some areas they may be different, in this area they may find that they are treated the same by both. Neither post nor pre can affect that. The state would have the right to legislate in that.

COMMISSIONER GAUTREAUX:

Any other questions?

(No response.)

Thank you, Jim. We kind of merged old and new business there. Our next item is public comments. Are there any comments or questions by members of the public?

COMMISSIONER CEFALU:

I had something I'd like to -- just for public comment. We have our Police Jury Association convention this week. I'm going to be going up tonight. I'm on the Resolutions Committee, and we will be taking under consideration quite a few concerns of some parishes concerning legislation they're going to be pushing for, of course, state legislation. And I was going to just let you know that I will be looking to see what's the gist of the matters and how we can maybe assist them, whether it's good legislation, or maybe we can hold them off and let them wait until we get our program put together. But that's going to happen this week. By the next meeting I'll try and have a report on what came out of it.

COMMISSIONER GAUTREAUX:

Good. Thank you. I believe Tony is going to be speaking at that meeting as well. So very good. Thank you. Any other comments, announcements, questions?

(No response.)

As Raymond Reaux mentioned, we have a pretty ambitious schedule in terms of meeting the deliverables for the data gathering portion of our plan. And because of two things, the emergency rule, the timing for that, and the turnaround for the plan, we're probably going to set out a series of three meetings, or propose them right now. We'll see how it works out in time. But the dates, some of the dates that have been suggested, and we'll combine an overview from C.H. Fenstermaker, we'll include that in the next meeting that will also deal with the emergency rule and any other topics that we need to address at that point. But we're looking at March 20th -- 18th, 20th, or 27th.

I know there were some concerns -- well, let me just hear from the Commissioners. The 18th, does anyone have a -- that's a Monday. Is that a problem? Fulbert?

COMMISSIONER NAMWAMBA:

What time?

COMMISSIONER GAUTREAUX:

It would be afternoon. The 20th in the afternoon it would be all right, but I know there are some people that have a conflict.

MR. DUPLECHIN:

18th is the only available day.

COMMISSIONER GAUTREAUX:

20th? Okay. All right, Wednesday, March 20th, this room is available.

MR. DUPLECHIN:

No. Charlotte just told me that the only date that's available for this room is the 18th right now.

COMMISSIONER GAUTREAUX:

Oh, the 18th, I'm sorry. And a number of Commissioners have meetings down here on the 20th. And the other alternative was the 27th, which was in a week that a few people had asked us to avoid if we possibly could. I guess we can find another location on the 20th, but that was a conflict. How many people have conflicts with the 18th? We'll try to get along with -

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COMMISSIONER NAMWAMBA:

What time do we --

COMMISSIONER GAUTREAUX:

1:30, typically.

COMMISSIONER NAMWAMBA:

Typically we begin at 1:30, and typically, when do we end?

COMMISSIONER GAUTREAUX:

Usually by 3:00, 1:30 to 3:00.

COMMISSIONER NAMWAMBA:

I may be able to squeeze it.

COMMISSIONER GAUTREAUX:

Okay, so we have one conflict with the 18th. The 20th? One conflict. And we have a room on one and not the other.

COMMISSIONER CEFALU:

Maybe we can go back across the street. The air condition worked a little better.

COMMISSIONER GAUTREAUX:

We may not be able to use that building anymore at all. I think we have to round up seats now. If everyone brings their own chair, we can do it.

COMMISSIONER NAMWAMBA:

I can come on the 18th.

COMMISSIONER GAUTREAUX:

You can come on the 18th?

COMMISSIONER NAMWAMBA:

Yes, it's possible.

COMMISSIONER GAUTREAUX:

Let's make it the 20th, and we'll find a room, the 20th at 1:30. Then based on the turnaround, we're going to try to get the draft report to Commission members somewhere around the first of the month, is that correct? The first of May. Refresh my memory on that time line. Raymond, which date -- what were we shooting for in terms of --

MR. REAUX:

The end of the first week of May they should effectively see it.

COMMISSIONER GAUTREAUX:

So around the first week of May we hope to transmit draft reports to Commission and Task Force members, and this will be on the data gathering section of the plan. And I think also you're going to be meeting with Technical Committee and Industrial Committee, anyone who wants to. We'll make sure the meeting notifications go out to review the accuracy of the data. Then what we'd like to do is have a meeting on May 15th so that we can have a more detailed presentation, and you'll have an opportunity to ask questions about the draft. And then what we'd like to do within a two-week -- we have it marked as a two-week period right now, come back on the 29th, after the C.H. Fenstermaker folks have had a chance to incorporate comments, and then probably have final comments and possibly approve a draft on the 29th of May, and then that will allow them a two-week tweak period to be able

to meet the final deliverables.

So if we can shoot for that schedule, it's a bunch of meetings but we're in a critical phase at the moment, or will be at that point. The 15th of May and the 29th of May.

COMMISSIONER CEFALU:

What time are the meetings? Same time?

COMMISSIONER GAUTREAUX:

Yes, we'll always shoot for 1:30.

COMMISSIONER DURRETT:

Let me ask a question. If the Sparta has their notice of intent in the next 30 days, then that means that we'll be involved in a May meeting, too; right, Tony?

COMMISSIONER GAUTREAUX:

Well, I think what we were -- if I remember correctly, the notice of intent would be filed, and then when you're ready to submit your application we would actually have a meeting up in your area to receive the application.

COMMISSIONER DURRETT:

When we advertise the notice of intent, we've got a 30- to 60-day window; right?

MR. DUPLECHIN:

Yes.

COMMISSIONER DURRETT:

So if that's in March, that gives you April and May.

COMMISSIONER GAUTREAUX:

Well, what we could do is see if we could accommodate one of those meeting up there, but we will definitely go up there to receive that and hold a meeting, receive the application.

I have a question for Kyle. Can you give us an update on Linda?

MR. MCCANN:

Linda Zaunbrecher is doing very well. Actually, she had some other family matters to attend to, but I've seen her twice out at meetings. She cannot drive right now because of the open heart surgery, but is recovering very well and making good progress.

COMMISSIONER GAUTREAUX:

Good. Thank you for joining us for her today, and please wish her our best. I hope to get to talk to her pretty soon myself. Any other questions or comments?

COMMISSIONER DURRETT:

Can I make a comment? I'd like to thank Tony and yourself and other people who have made it to Ruston for the last Sparta meeting. Tony has been very helpful. He does an excellent job, and the Sparta Commission appreciates that.

COMMISSIONER GAUTREAUX:

Thank you, and we appreciate your willingness to work with us. It's very helpful.

With that, do I have a motion to adjourn?

COMMISSIONER CEFALU:

So moved.

COMMISSIONER GAUTREAUX:

Second?

COMMISSIONER SPICER:

Second.

COMMISSIONER GAUTREAUX:

All in favor? (Aye.) Thank you.

CERTIFICATE

I, SUZETTE M. MAGEE, Certified Court Reporter, do hereby certify that the foregoing meeting of the Ground Water Management Commission was held on February 20, 2002, in the Conservation Hearing Room, Baton Rouge, Louisiana; that I did report the proceedings thereof; that the foregoing pages, numbered 1 through 38, inclusive, constitute a true and correct transcript of the proceedings thereof.

SUZETTE M. MAGEE, CCR #93079
CERTIFIED COURT REPORTER